

ORDER BELOW EXH.39 IN R. C. S. No. 29/2025
(Jalindar Kisan Kale Vs. Machindra Kisan Kale & Others)

CNR No.MHST180010522025

01. This is an application moved by defendant no. 2 under Order VII Rule 11(b) of the Code of Civil Procedure, 1908 to reject the plaint. Defendant no. 2 submits that, this is suit for partition and separate possession. The plaintiff has claimed his share in agricultural properties as well as house property mentioned in plaint para No. 1B and has paid court fee stamps of Rs. 53,666/-. He has shown valuation of the suit house is Rs. 1,00,000/-. He submitted that, he is having $\frac{1}{4}$ share in the suit house and therefore, he is liable to pay court fees on Rs. 25,000/- and accordingly paid court fees. However, the market value of suit house is Rs. 84,71,048.80/-. Defendant no. 2 has obtained valuation report of the suit house from the Sub-Registrar Office, Vaduj and it is produced on the record. He further submits that, the plaintiff has deliberately shown relief claimed is under value and therefore, the plaint is liable to be rejected.

02. Per contra, the plaintiff has filed his say (Exh.47) and accordingly, denies the contention of defendant no. 2 in toto. He submits that, the relief claimed is properly valued. Defendant no. 2 has filed false application to prolong the matter. By filing instant application, defendant no. 2 wants to refrain the plaintiff from

getting relief from the Court. The plaintiff has filed interim injunction application (Exh.5) and said application is pending for the final argument. Defendant no. 2 has obtained false valuation report of the suit house and therefore, defendant no. 2's application be rejected. He further submits that, defendant no. 2 has not proved contents of valuation report and till then, it can not be read in evidence.

03. Heard Ld. Advocate for defendant no. 2 and the plaintiff at length. I have given considerable thought to the submission learned Advocates for both the sides.

04. I have gone through the plaint and the documents produced by the plaintiff on record. I also perused the valuation report of suit house appended with list of document (Exh. 42). On perusal of valuation report it appears that it is issued by Sub-Registrar Office, Vaduj. The concern authority has shown market value of the suit house is Rs. 84,71,048.80/-. On perusal of the plaint, it reveals that, the plaintiff has shown the value of suit house is Rs. 1,00,000/- only and has paid court fees as per his claim. In my considered view, on mere reading of the plaint and valuation report attached with list of document (Exh.42), it is seen that, the relief claimed is under valued.

05. Section 6 (v) of The Bombay Court Fees Act, 1959 speaks that, in suits for the possession of land, houses and gardens according to the value of the subject-matter; and such value shall be deemed to be, where the subject-matter is a house or garden according to the market value of the house. On perusal of the valuation report attached with list of document(Exh. 42) it reveals that, the plaintiff shall pay court fees on market value of the suit house and not on only Rs. 1,00,000/- i.e. hypothetical value of the suit property. In my considered view, relief claimed by the plaintiff is under valued. Hence, I pass following order.

ORDER

The plaintiff is given one month's time to correct the valuation of suit house, failing which the plaint shall stands rejected, provided further time for correction of valuation is not extended Vide Order VII, Rule11(d) of the Code of Civil Procedure.

Date:18.07.2025
Vaduj.

(Salim P. Sayyed)
2nd Jt. Civil Judge Sr. Div., Vaduj
Tal. Khatav, Dist. Satara.